IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1987 OF 2005

Parshuram Chindu Patil & Ors. .. Petitioners
V/s.
Commissioner of Konkan Division & Ors. .. Respondents

Mr. D.S. Sakhalkar for the Petitioners
Ms. Anjali M. Chandurkar i/b. M/s. Purnanand & Co. for the Respondent No. 4
Mr. D.A. Patil, AGP. for the Respondent Nos. 1 and 5.

CORAM : B.H. MARLAPALLE, J.
DATED : 03.05.2005

P.C.:-

1. Heard Mr. Sakhalkar, the learned counsel for the Petitioners, they claim to be the tenants of the agricultural land admeasuring 2 H and 92 R from Survey No. 242/1/P of village Kavesar in Thane district. They had submitted an application under section 17-B of the Bombay Tenancy and Agricultural Land Act, 1948 ("Bombay Tenancy Act" for short) before the competent authorities. The above application filed before the Divisional Commissioner, Konkan Division, has been rejected on 2.9.2004 and hence this Petition.

2. It is clear from the records that the Respondent No. 4 was declared as protected tenant over the same land by the Tahsildar by his order dated 2.8.1988, however, the Collector, Thane initiated suo motu action and set aside order dated 28.1.1988 and remanded the matter for fresh enquiry.

3. On remand, the Tahsildar, passed an order on

16.2.2004 and declared that on the Suit land, the

Respondent No. 4 was tenant prior to 1.4.1957. This order dated 16.2.204 has reached it's finality. So far as the present Petitioners are concerned, their father Shri Chandu Kanha Patil had applied to the Additional Tahsildar and ALT, Thane under section 17-B of the Bombay Tenancy Act for declaration as tenant and the said application was rejected on 13.12.1978 and the same order received finality.

4. It is in these circumstances, that the claim of the Petitioners can not be considered in respect of the very same land for which the Respondent No. 4 has already been declared as a tenant prior to 1.4.1957. This finding on merit is in addition to the fact that the Petitioner's claim was rejected way back in 1978 when their father had submitted an application.

5. Hence, the claim made in this Petition is devoid of merits in addition it is being highly belated.

6. The Petition is rejected summarily.

(B.H. MARLAPALLE, J.)